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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/377,929 08/20/99 MELE

P PM-5C

EXAMINER

PM92/0209

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CHERRY, J

ART UNIT

PAPER NUMBER

3652

DATE MAILED:

02/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

377,929

Applicant(s)

Mele

Examiner

J. Cherry

Group Art Unit

3652

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 8-20-99 is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3651

1. Claims 1-15 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitations in claim 1 that the <sup>strut</sup>~~street~~ mechanism extends "over the curvature" of the scoop and in claim 13 that the control member is attached "over the curvature" of the scoop are vague and also misleading and misdescriptive since the disclosed strut and the disclosed control member do not curve to extend along the curvature of the scoop as implied. Also, it appears that "a curved scoop" in line 4 of claim 12 should be changed to - said curved scoop -. Further, the exact meaning of "beyond and under" in claim 13 is vague and unclear. Still further, there is no clear antecedent basis for "the leading edge" in claim 13 or "The method" in claim 15. Additionally, the exact meaning of claim 14 is vague and unclear. Also, it appears that "a" in line 2 of claim 14 should be changed to -said-. Further, the recitations in claims 17 and 18 of means "engaging said surface" are inconsistent with and contradictory to the recitation in claim 16, from which they depend, that the scoop is moved "without engaging a surface". Still further, it is unclear whether the "curved scoop" in claims 19 and 20 refers to the "scoop" recited in claim 16 or is additional thereto. Also, the exact meaning of "rolling said scoop" in claim 19 is vague and unclear.

2. Claims 14 and 15 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The "positioning" step in claim 14 appears to be

Art Unit: 3651

directed to a method of fabricating rather to a method of removing accumulated material as recited in claim 13, from which it depends. Also, purported method claim 15 contains only a structural limitation and, accordingly, fails to define any steps in a method.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16, 17 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wenzel.

5. Claims 16-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Goodnough et al.

6. Claims 1-15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

7. The drawings are objected to for failure to designate connector "75", holes "75-h1" and "75-h2", lock nut "75-n" and feet "74-f" as referred to in the specification. Correction is required.

8. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.


Art Unit: 3651

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Examiner J. Cherry at telephone number (703) 308-<sup>1113</sup>~~2168~~.

Cherry/ph

February 8, 2001

 2-9-01  
JOHNNY D. CHERRY  
PRIMARY EXAMINER  
ART UNIT-~~312~~  
3652